HOUSE BILL NO. 441

INTRODUCED BY B. WISEMAN

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT PSEUDOEPHEDRINE IN POWDER OR TABLET FORM MAY BE SOLD ONLY BY PRESCRIPTION UNLESS IT IS COMBINED WITH A THERAPEUTICALLY SIGNIFICANT QUANTITY OF AT LEAST ONE OTHER ACTIVE MEDICINAL INGREDIENT; AND AMENDING SECTION 50-31-307, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 50-31-307, MCA, is amended to read:

"50-31-307. Dispensing of prescription drugs. (1) A drug intended for use by humans that is included in one of the categories in subsection (2) may be dispensed only:

(a) upon a written prescription of a practitioner licensed by law to administer the drug;

(b) upon an oral prescription of the practitioner that is reduced promptly to writing and filed by the pharmacist; or

(c) by refilling a written or oral prescription if the refilling is authorized by the practitioner, either in the original prescription or by an oral order that is reduced promptly to writing and filed by the pharmacist.

(2) A drug must be dispensed as provided in subsection (1) if the drug:

(a) is a habit-forming drug to which 50-31-306(1)(d) applies;

(b) because of its toxicity or other potentiality for harmful effect, the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law to administer the drug; ~~or~~

(c) is limited by an approved application under section 505 of the federal act (21 U.S.C. 355) or 50-31-311 to use under the professional supervision of a practitioner licensed by law to administer the drug; or

(d) is any material, compound, mixture, or preparation that is in a powder form or is in a tablet, pill, or similar form, excluding a liquid capsule or gel capsule, and that contains any quantity of pseudoephedrine having a stimulant effect on the central nervous system, including its salts, enantiomers (optical isomers), and salts of enantiomers (optical isomers) when pseudoephedrine is the only active medicinal ingredient or is not combined with a therapeutically significant quantity of at least one other active medicinal ingredient.

(3) If the drug is a factory prepackaged oral contraceptive, it may be dispensed as provided in subsection (1) or by a registered nurse employed by a family planning clinic under contract with the department of public health and human services pursuant to a physician's written protocol specifying the circumstances under which dispensing is appropriate and pursuant to the board of pharmacy's rules concerning labeling, storage, and recordkeeping of drugs.

(4) The act of dispensing a drug contrary to the provisions of this section is considered an act that results in a drug being misbranded while held for sale."

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